

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Plaintiff,

v.

CONNIE MANN, DEAN MANN, and
all occupants of premises located at
5283 North Estate Road, Sprague, WA
99032,

Defendants.

NO: 2:14-CV-0189-TOR

ORDER OF REMAND

BEFORE THE COURT is Plaintiff's Motion to Remand to Superior Court
(ECF No. 3). This matter was submitted for consideration without oral argument.
The Court has reviewed the briefing and the record and files herein, and is fully
informed.

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ORDER REMANDING CASE TO STATE COURT ~ 1

1 BACKGROUND

2 This case involves an unlawful detainer action originally filed in Lincoln
3 County, Washington, Superior Court.

4 FACTS¹

5 Defendants, including Connie and Dean Mann, are residents of 5283 North
6 Estate Road, Sprague, WA 99032. On February 15, 2013, Central Mortgage
7 Company acquired title to the real property situated at that address at a sheriff's
8 sale conducted pursuant to RCW 61.24.010, *et seq.* The property was subsequently
9 deeded to Federal National Mortgage Association by an assignment of certificate
10 of sale recorded May 9, 2014. On May 27, 2014, Federal National Mortgage
11 Association sued Defendants in Washington State Superior Court in Lincoln
12 County, stating that more than 20 days passed since the trustee's sale and that
13 Defendants failed to vacate or surrender the premises. Plaintiff asked that the Court
14 award fair restitution of the premises and an order issuing a writ of restitution, and
15 for the fair rental value of the property.

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19 ¹ Facts are derived from the complaint and motions, and are considered only for
20 purposes of the motion now before the Court.

DISCUSSION

Title 28 United States Code Section 1441 governs removal of cases from state court to federal court. Generally, a defendant may remove a case to federal court if the federal court would have subject-matter jurisdiction over one or more of the plaintiff's claims pursuant to 28 U.S.C. §§ 1331 (federal question) or 1332 (diversity of citizenship). *See* 28 U.S.C. § 1441(a), (b). Once a case has been properly removed, a federal court must generally entertain all claims over which it has original subject-matter jurisdiction. *See Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 716 (1996) (noting that “federal courts have a strict duty to exercise the jurisdiction that is conferred upon them by Congress” in removal proceedings). “Since a defendant may remove a case only if the claim could have been brought in federal court...the question for removal jurisdiction must also be determined by reference to the ‘well-pleaded complaint.’” *Merrell Dow Pharm. Inc. v. Thompson*, 478 U.S. 804, 808 (1986). “A defense that raises a federal question is inadequate to confer federal jurisdiction.” *Id.* There is a “strong presumption” against removal, and federal jurisdiction must be rejected if there are doubts about the right of removal. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

Plaintiff contends that this Court lacks subject matter jurisdiction based on both federal question and diversity jurisdiction, and accordingly should remand this case back to state court. For reasons articulated herein, the Court agrees.

1 **A. Whether Removal Based on Federal Question Jurisdiction Is Proper**

2 Plaintiff contends that Defendants have not shown that this Court has federal
3 question jurisdiction. ECF No. 3 at 3. Rather, it argues, the unlawful detainer
4 action is based solely on state law, and is limited to possession of the property; as
5 such, no federal laws apply to the present action. *Id.* Plaintiff also argues that
6 invocation of federal laws in Defendants' answer or notice of removal fails to
7 confer subject matter jurisdiction because the federal question must be presented
8 on the face of the well-pleaded complaint. Defendants argue in their notice of
9 removal that Plaintiff's complaint "intentionally fails to allege compliance with the
10 Civil Rights Act of 1968," that "Defendants['] property is farmland with a federal
11 loan," and that the value of the property was set by a government agency (Farm
12 Service Agency)." ECF No. 6 at 3. Defendants maintain that "even where the
13 cause of action is based on state law, the District Court has subject matter
14 jurisdiction over the case if (1) the federal issues are essential to the claims, (2)
15 there is a substantial federal issues [sic] in resolving such issues, and (3) a Federal
16 forum may entertain the State Law claims without disturbing the balance of
17 Federal and State judicial responsibilities," citing *Grable & Sons Metal Prods. v.*
18 *Darue Egnr. & Mfg.*, 545 U.S. 308 (2005). ECF No. 6 at 3.

19 "The district courts shall have original jurisdiction of all civil actions arising
20 under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

1 Federal question jurisdiction generally exists only when a federal question is
2 presented on the face of the plaintiff's properly pleaded complaint. *Holmes Group,*
3 *Inc. v. Vornado Air Circulation Systems, Inc.*, 535 U.S. 826 (2002).

4 Here, Plaintiff's complaint for forcible or unlawful detainer is, on its face,
5 based on various state laws pertaining to the lawful transfer of the property to
6 Plaintiff and its subsequent right to possession of the property. *See* RCW
7 61.24.010, *et seq.*; RCW 61.34.020; RCW 61.24.060; RCW 59.12. Nowhere does
8 the complaint cite federal law or recite facts obviously giving rise to a cause of
9 action under federal law. Thus, Plaintiff's properly pleaded complaint, on its face,
10 does not present a federal question giving rise to subject matter jurisdiction.

11 Defendants' federal law arguments, cited in their removal notice, are essentially
12 defenses to the detainer action, and as such are not pleaded in the complaint.

13 Defendants are correct in noting that the Supreme Court has held that "in
14 certain cases federal-question jurisdiction will lie over state-law claims that
15 implicate significant federal issues." *Grable & Sons*, 545 U.S. 308, 312 (2005).
16 However, this doctrine is limited in scope, requiring "not only a contested federal
17 issue, but a substantial one, indicating a serious federal interest in claiming the
18 advantages thought to be inherent in the federal forum." *Id.* at 313. "Because
19 arising-under jurisdiction to hear a state-law claim always raises the possibility of
20 upsetting the state-federal line drawn (or at least assumed) by Congress, the

1 presence of a disputed federal issue and the ostensible importance of a federal
2 forum are never necessarily dispositive; there must always be an assessment of any
3 disruptive portent in exercising federal jurisdiction.” *Id.* at 314 (finding that the
4 case warranted federal jurisdiction where Plaintiff’s state law quiet title claim was
5 premised on IRS’s failure to give notice as defined by federal law).

6 Without reaching the merits of Defendant’s claims, the Court notes that
7 Defendants have not explained how the invocation of federal law or federally
8 related questions are “substantial” and implicate “a serious federal interest in
9 claiming the advantages thought to be inherent in the federal forum.” Rather,
10 Defendants state (1) that Plaintiff fails to allege compliance with the Civil Rights
11 Act, without explaining what relevance the Act has to an unlawful detainer act; (2)
12 that Defendants’ farmland is “with a federal loan,” again without stating the
13 relationship to the present action and how that implicates a federal question; and
14 (3) that the value of the property was set by a governmental agency at a lower price
15 than normal, again without explaining the relevance to Plaintiff’s action against
16 Defendants or how it implicates a substantial question of federal law warranting an
17 exception to general federal question analysis. ECF No. 6 at 2-3. Rather, unless a
18 federal law applies, property law is usually a creature of state law. *See, e.g.,*
19 *Barnhill v. Johnson*, 503 U.S. 393, 398 (1992) (“In the absence of any controlling
20 federal law, ‘property’ and ‘interests in property’ are creatures of state law.”).

1 Accordingly, the Court declines to apply this exception to the general rule that the
2 federal question must appear on the face of the well-pleaded complaint, and finds
3 that there is no federal question jurisdiction.

4 **B. Whether Removal Based on Diversity Jurisdiction Is Proper**

5 Defendants do not appear to allege diversity jurisdiction. However, Plaintiff
6 argues that even if they were, such jurisdiction does not exist. The Court agrees.

7 “The district courts shall have original jurisdiction of all civil actions where
8 the matter in controversy exceeds the sum or value of \$75,000, exclusive of
9 interest and costs, and is between...citizens of different States...” 28 U.S.C. §
10 1332(a). “A civil action otherwise removable solely on the basis of the jurisdiction
11 under section 1332(a) of this title may not be removed if any of the parties in
12 interest properly joined and served as defendants is a citizen of the State in which
13 such action is brought.” 28 U.S.C. §1441(b)(2). *See also Lincoln Property Co. v.*
14 *Roche*, 546 U.S. 81, 90 (2005). “This ‘forum defendant’ rule ‘reflects the belief
15 that [federal] diversity jurisdiction is unnecessary because there is less reason to
16 fear state court prejudice against the defendants if one or more of them is from the
17 forum state.’” *Spencer v. U.S. Dist. Court for N. Dist. of Ca.*, 393 F.3d 867, 870
18 (9th Cir. 2004) (quoting Erwin Chemerinsky, *Federal Jurisdiction* § 5.5, at 345
19 (4th ed.2003)). “It is thus clear that the presence of a local defendant at the time
20 removal is sought bars removal.” *Id.* at 870 (9th Cir. 2004).

1 Here, setting aside the amount in controversy, which Defendants have not
2 stated, Defendants fail to meet § 1441(b)'s requirement of non-residence in the
3 state of removal. At the time of removal, Defendants appear to have resided at the
4 property in dispute in Sprague, Washington—in the same state in which the action
5 was brought. Thus, removal on diversity jurisdiction is barred under 28 U.S.C.
6 § 1441(b).

7 Consequently, Defendants have not established the federal question or
8 diversity jurisdiction. As such the Court must remand this case back to state court.

9 **ACCORDINGLY, IT IS HEREBY ORDERED:**

10 1. Plaintiff's Motion to Remand is **GRANTED**. The Court hereby

11 **REMANDS** this case to the Lincoln County Superior Court, State of
12 Washington, for all further proceedings.

13 The District Court Clerk is directed to enter this Order, provide copies to
14 counsel, mail copies to pro se parties, mail a certified copy of this Order to the
15 Clerk of the Lincoln County Superior Court, and **CLOSE** this file.

16 **DATED** August 15, 2014.



Thomas O. Rice
THOMAS O. RICE
United States District Judge